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CMRE FINANCIAL SERVICES, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

EUGENE PASQUALE,)	Case No.: 5:11-cv-01864-LHK
)	
Plaintiff,)	Joint Case Management Statement
)	
v.)	
)	
CMRE FINANCIAL SERVICES, INC.,)	
)	
Defendant.)	
)	

COMES NOW Plaintiff and Defendant through their undersigned counsel and hereby make this Joint Case Management Statement as pursuant to Civil Local Rule 16-9 and the Order Setting a new Initial Case Management Conference on July 20, 2011.

1). **Jurisdiction and Service:**

(a) Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United

1 States district court without regard to the amount in controversy” and 28 U.S.C.
2 1367 grants this court supplemental jurisdiction over the state claims contained
3 therein.

4 b) As Plaintiff resides within this district and Defendant conducts business
5 here, personal jurisdiction is satisfied for all parties.

6 c) Defendant was successfully served on June 9, 2011. Defendant’s Answer
7 was filed on June 24, 2011.

8 2). **Facts of Case;**

9 (a) Plaintiff alleges that Defendant has been communicating with Plaintiff
10 regarding an alleged debt despite receiving a cease and desist letter demanding
11 that all phone calls stop. Plaintiff alleges that Defendant further engaged in
12 deceptive collection practices by misrepresenting the name of the original
13 creditor, and that Defendant’s actions are in violation of both the Fair Debt
14 Collection Practices Act and the Rosenthal Fair Debt Collection Practices Act.
15 Defendant contends it undertook lawful efforts to collect the alleged debt owed by
16 Plaintiff.

17 3). **Legal Issues;**

18 (a) Whether or not Defendant’s alleged actions violated Plaintiff’s rights
19 afforded by the Fair Debt Collection Practices Act, 15 USC 1692 et seq. and the
20 Rosenthal Fair Debt Collection Practices Act, Cal Civ. 1788 et seq.

21 4). **Motions;**

22 (a) No prior or pending motions in the present matter.
23 (b) Defendant may file a motion for summary judgment.
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1 5). **Amendment of Pleadings:**

2 (a) At present, neither party anticipates any further amendments to pleadings.
3 However, parties reserve the right to do if needed and in accordance with the
4 FRCP and Local Rules.

5 **6. Evidence Preservation:**

6 (a) Parties agree to preserve any and all evidence within its possession either
7 physically or electronically stored. Parties agree to cease any and all deletion or
8 destruction policies it may have that would lead to the destruction of evidence in
9 this matter.

10 **7. Disclosures:**

11 (a) Parties agree to serve written disclosures upon each other within fourteen
12 (14) days of the 26f meeting as pursuant to the Federal Rules of Civil Procedure.

13 **8. Discovery:**

- 14 (a) No discovery has been taken as of yet by either party
15 (b) Parties agree that Federal Rule of Civil Procedure 26(b)(1) controls the
16 scope of discovery in the present matter.
17 (c) Parties agree that the uses and limits of discovery devices be governed
18 by the rules contained within the Federal Rules of Civil Procedure.
19 (d) Rule 26(f) Discovery Plan;
20 i) Discovery Cut-Off is January 21, 2012.
21 ii) All Written Discovery served by December 1, 2011.
22 iii) All depositions to be completed by January 21, 2012.

23 **9. Class Actions:**

- 24 (a) Present Matter is not a class action.
25

1 **10. Related Cases;**

- 2 (a) The present matter is not related to any other cases.

3 **11. Relief;**

- 4 (a) Plaintiff seeks statutory damages of \$1,000 pursuant to 15 USC
5 1692k(2)(A) and \$1,000 pursuant to Cal. Civ. 1788.30(b).
6 (b) Plaintiff seeks any other relief that this court deems to be just and
7 proper.
8 (c) Plaintiff seeks reasonable attorneys fees and costs as pursuant to 15
9 USC 1692k(3) and Cal. Civ. 1788.30(c).
10 (d) Defendant seeks a dismissal of the present action.
11 (e) Defendant seeks further relief as this court deems proper.

12 **12. Settlement and ADR;**

- 13 (a) Parties have agreed to make good faith efforts to settle the present
14 matter and will continue to do so.
15 (b) No ADR efforts have been made to date.
16 (c) Parties agree to file and serve their ADR Certifications on or before the
17 Case Management Conference.
18 (d) Parties stipulate to mediation.
19 (e) Parties believe that written and oral discovery pertaining to Plaintiff
20 allegations and Defendant's defenses, and Defendant's account notes is
21 key before the matter can be resolved.

22 **13. Consent to Magistrate Judge;**

- 23 (a) Parties do not consent to Magistrate Jurisdiction.
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2 **14. Other References;**

- 3 (a) Parties do not believe the present matter is suited for binding
4 arbitration, a special master or any other reference.

5 **15. Narrowing of Issues;**

- 6 (a) None.

7 **16. Expedited Schedule;**

- 8 (a) Parties agree the present matter is not suit for streamlined procedures.

9 **17. Scheduling;**

- 10 (a) Designation of Experts to be no later than December 21, 2011.
11 (b) Discovery Cut-Off; January 21, 2012.
12 (c) Motion Cut-Off; March 14, 2012.
13 (d) Pre-trial conference; April 2012.
14 (e) Trial; May 2012.

15 **18. Trial;**

- 16 (a) Plaintiff requested trial by jury in his complaint.
17 (b) Parties believe that trial would necessitate two (2) days.

18 **19. Disclosure of Non-Party Interested Entities or Persons;**

- 19 (a) Plaintiff has filed a Certificate of Interested Persons as required by local
20 Rule 3-16;
21 (b) Plaintiff states that only the named Plaintiff has a direct financial or other
22 interested in the present matter.
23 (c) All parties have filed the certificate of interested parties.

24 **20. Other Matters**

- 25 (a) None.

1 DATED: July 13, 2011

KROHN & MOSS, LTD.

2 By: /s/ Christopher Addy

3 Christopher Addy
4 Attorney for Plaintiff

5
6 DATED: July 13, 2011

LAW OFFICES OF FRANKLIN J. LOVE

7
8 By: /s/ Franklin J. Love

9 Franklin J. Love
10 Attorney for Defendant